

## CHAPTER 3

### ARTICLE 8-- LEAVE CREDIT AND OVERTIME MANAGEMENT

*Revised September 20, 2000*

#### 31080.1 POLICY

The California Department of Corrections (CDC) shall manage employee leave credits and overtime use in a manner that provides efficient control, accountability and fiscal responsibility.

#### 31080.2 PURPOSE

This article provides standard policy and practices to ensure that CDC employees understand their roles in the efficient management and use of leave credits and overtime.

Included in this article are directives to ensure that employee overtime is allowed only when required to provide the safe and efficient operation of CDC.

If any provision in this article is in conflict with collective bargaining agreements, the collective bargaining agreements shall prevail as they relate to the specific represented group.

#### 31080.3 DEFINITIONS

##### Sick Leave

Sick leave is the absence of an employee or qualifying family member due to illness or injury, which is serious enough that the employee is unable to work.

##### Vacation

Vacation is planned time off work with pay, using accrued vacation or annual leave credits, or other leave credits, excluding sick leave. The limit on the number of hours that may be accumulated during a calendar year is established by:

- The appropriate collective bargaining agreement for represented employees.
- Department of Personnel Administration (DPA) rules for non-represented employees.

##### Holiday

Official State Holidays are those days declared in accordance with DPA rules or by gubernatorial proclamation. Provisions are applied in accordance with DPA rules and applicable collective bargaining agreements.

##### Overtime

Overtime is critical and unavoidable work scheduled outside of the normal work hours of an employee, for which payment is at a higher level than usual earnings as defined in the various collective bargaining agreements for represented employees, or by the Fair Labor Standards Act (FLSA) for non-represented employees.

Depending upon their Work Week Group (WWG) designation, managers and employees exempt from FLSA or collective bargaining agreement provisions may not be eligible for overtime compensation regardless of the number of hours worked.

#### 31080.4 INSTITUTIONAL OVERTIME/SICK LEAVE MANAGEMENT REVIEW PROCESS

Each Warden shall establish an Overtime/Sick Leave Management Review (OSLMR) Process. In this process, managers and employees from custody and business services shall meet and evaluate the institution's custody overtime management and sick leave use on a daily basis. The Warden, or designee, shall chair the OSLMR meeting. The managers and employees shall assess the institution's progress toward reducing overtime and sick leave usage reduction goals, in accordance with this article, and review all overtime expenditures on a monthly basis.

In order to document the OSLMR, managers and employees shall maintain meeting minutes. The minutes shall include the date of the meeting, participants' names and civil service classifications, and the general findings/actions. The minutes shall not include confidential employee information.

#### Sick Leave Management Duties

The managers and employees shall review absences from the previous day to determine if coverage was appropriate and shall:

- Assign specific supervisors the responsibility for following-up on the welfare of an employee who appears to be developing a recognizable pattern of sick leave use/abuse (e.g., frequent days in conjunction with weekend/regular day off), or for any other reason as determined by the review process.
- Update the Bargaining Unit 6 Extraordinary Use of Sick Leave (EUSL) list to include those employees who have established a pattern of extraordinary sick leave use/abuse pursuant to the collective bargaining agreement. The agreement specifies that a pattern of "Extraordinary Use of Sick Leave" exists if an employee has more than five (5) occasions of sick leave usage which total nine (9) or more days of sick leave use within the prior twelve-consecutive-month period. Or, if an employee has three (3) or more separate occasions of sick leave in the prior twelve-consecutive-month period in conjunction with his/her established regular days off. Or an employee attempts to use sick leave on a date which the employee previously requested a different form of leave covered by the collective bargaining unit agreement, but was denied. Employees who participate in the Annual Leave Program shall not be placed on the EUSL. Sick leave used under the Family Medical Leave Act (FMLA), California Family Rights Act (CFRA), or California Labor Code (LC), section 233 shall not be considered when determining if a pattern of extraordinary use of sick leave exists.

#### Overtime Management Duties

The OSLMR shall review the previous days' use of overtime due to unplanned absences to determine if all reasonable alternatives were considered before overtime was authorized, and if overtime was necessary to maintain the safe and efficient operation of the institution/region or affected area.

This review will utilize information from the Watch Office Tracking System, Personnel Post Assignment Schedule System, and any other available information, which would provide relevant data.

#### 31080.5 NON-INSTITUTIONAL OVERTIME/SICK LEAVE MANAGEMENT

In areas other than institutions/facilities (e.g., Parole Regions; Headquarters; Health Care Services operations within institutions), where overtime and sick leave usage are high, a review process similar to that of the OSLMR shall be utilized to monitor these activities on a monthly basis.

#### 31080.6 INSTITUTIONAL OVERTIME AVOIDANCE POOL

Each institution shall develop an Overtime Avoidance Pool (OTAP) consisting of permanent full-time employees. The number of permanent full-time employees in the OTAP will vary by institution, and must be re-evaluated and adjusted regularly (at least quarterly) based on the needs of the institution. The number of OTAP permanent full-time employees needed in a specific classification at an institution is determined by:

- Establishing the average number of permanent full-time employees, by watch and classification, who have been absent during the previous 12-month period due to the following:
  - Long-term sick.
  - Industrial Disability Leave.
  - Non-Industrial Disability Leave.
  - Other extended leave.

- Adding this average to the fewest number of daily sick calls, by watch and classification, in the prior six-month period.
- Subtracting the number of sick leave relief positions already established and filled in those classifications with budgeted sick leave relief.
- Adding the fewest number of overtime positions paid on a daily basis for ongoing assignments which are in addition to the Post assignment schedule in the previous three months. (Examples might include: transportation, hospital guarding.)

#### **31080.6.1 APPOINTMENT OF THE OVERTIME AVOIDANCE POOL**

The Personnel Office shall make appointment of OTAP positions in the following order:

- Into vacant positions not identified in the Institutional Vacancy Plan, or otherwise identified as "salary savings" as defined in collective bargaining agreements.
- Into Institutional Vacancy Plan or "salary savings" positions.
- Into the 902 Temporary Help Blanket.

OTAP employees shall be assigned to specific watches, with varied hours, and regular days off, and used exclusively for overtime avoidance.

#### **31080.7 LEAVE CREDIT/OVERTIME APPOINTING AUTHORITY RESPONSIBILITIES**

Each appointing authority shall have overall responsibility for the management and control of employee leave credit (holiday, vacation, annual leave, sick leave and other accrued leave) use and overtime management in his/her assigned area of responsibility, and shall:

- Ensure that all managers and supervisors are informed of leave credit, overtime management, and vacation scheduling procedures as outlined in this section, collective bargaining agreements, DPA rules, all applicable laws and rules, including but not limited to FLSA, FMLA, CRFA, and LC, section 233.
- Provide managerial oversight of the sick leave, vacation, overtime and vacancy management process to ensure that it is applied in a fair and consistent manner which conveys to all employees the importance of prudent leave credit use.
- Ensure employees are allowed to use leave credits consistent with their classification, budgeted relief, and operational considerations relative to the efficient operation of the institution and impacted work areas.
- Ensure that vacation/annual leave balances are monitored so that employee leave balances shall not exceed the maximum allowable. When it is determined that an employee's balance has, or will exceed the maximum allowable, additional opportunities to take time off during the calendar year shall be allowed.
- Ensure that sufficient OTAP positions are established and filled in order to cover anticipated absences above the budgeted relief.

#### **31080.7.1 LEAVE CREDIT/OVERTIME MANAGERS AND SUPERVISORS RESPONSIBILITIES**

Each manager/supervisor shall have direct responsibility for the management and control of employee leave credit use and overtime management in his/her assigned area of responsibility, and shall:

- Be knowledgeable of all aspects of the Department's leave credit and overtime management policy, including the vacation scheduling, sick leave, and overtime approval processes.
- Be knowledgeable of all applicable laws, rules, regulations, California Government Code and collective bargaining agreements.
- Ensure that employees are aware of the method to request and schedule holiday, vacation, or other leave in accordance with this article.

- Within two (2) working days from the time the supervisor receives sufficient information to make the determination that the leave is FMLA/CFRA qualifying, notifying the employee that the leave is being tentatively designated FMLA/CFRA leave (pending medical certification of a serious illness) and that the leave is being counted against their FMLA/CFRA entitlement. A verbal notice must be followed up in writing by the next payday or within two (2) calendar weeks (whichever is later). If the employee takes leave for a reason that is FMLA/CFRA qualifying but the employee does not qualify for FMLA/CFRA leave, the supervisor must notify the employee within two (2) business days after the employee requests the time off. Failure to notify the employee of non-qualification automatically qualifies the employee for FMLA/CFRA leave regardless of length of service or hours physically worked.

- Provide that all budgeted employee positions, (not designated for salary savings, or included in the Institution Vacancy Plans), are established, filled and assigned to cover employee absences in such a manner as to avoid unnecessary overtime expenditures.
- Pre-approve all overtime and ensure that every alternative has been considered prior to granting overtime approval.
- Designate the level of approval required for authorizing overtime.
- Determine the maximum number of employees in various classifications that can take vacation and/or holiday leave at the same time within the assigned work areas. (For posted positions, the budgeted relief for those positions determines this number.)

#### **Sick leave management responsibilities include, but are not limited to:**

- Monitor the effect of sick leave related absenteeism within the assigned work area, in order to mitigate this effect whenever possible.
- Maintain accurate records of employee absences relating to sick leave and evaluating these absences to determine if there is a pattern of use/abuse developing which needs to be discussed with the employee.
- Take calls from employees who call in sick, and at that time, when appropriate, notify the employee that verification from a physician or other licensed practitioner must be submitted in accordance with collective bargaining agreements, and all other applicable laws, rules and regulations.
- Redistribute the absent employee's workload, when necessary, to ensure that priority work is completed on deadline.
- Ensure that CDC Form 998-A, Employee's Attendance Record, is received from each employee as required, and that, where applicable, substantiation is attached. Approve the employee's CDC Form 998 for use of leave credits only after having ascertained that the absence is for an authorized reason. If disapproved, the reasons for the disapproval will be given to the employee in writing.
- Set a good example for employees by using sick leave only when absolutely required for personal and family medical cares.

#### **Vacation and Holiday leave credit management responsibilities include, but are not limited to:**

- Review the monthly list of vacation/annual and holiday leave credit balances sent out by the Personnel Office for employees assigned to their work areas, and determine which employees are near or over the maximum allowable number of accrued leave credits.
- In the Institutions, designate whether requests from Correctional Officers, Sergeants or Lieutenants to use holiday leave credit will be submitted in writing or by telephone.
  - Written requests will be time and date stamped or noted upon receipt.
  - Telephone requests will be recorded electronically using a system which specifies the time the message was received.

A file/log shall be maintained noting the time and date each request was received, and whether it was approved or placed on a standby list. Designate the location(s) where employees will turn in requests to use holiday leave credit or the telephone number employees can call to request approval for using leave credit.

- Ensure that approval for an employee to use holiday leave credit does not result in overtime being required (except in an institution when a first watch commander is absent on holiday time off).
- Provide operational oversight for the leave system within his/her assigned area.
- Monitor the leave credit balances and encourage employees to use accrued leave credits throughout the calendar year in such a manner as to keep accrued balances within the established maximum limits without adversely affecting the safe and efficient operation of the work area.
- Approve requests for leave in accordance with departmental policy and procedures and the provisions of applicable collective bargaining agreements, laws, rules and regulations, based on operational need, and constraints imposed in the case of licensed employees. A written notice of approval to take leave shall be provided to employees at the time of approval.

**Overtime management responsibilities include, but are not limited to:**

- Maintain accurate records of employee overtime used, and track the reasons overtime was required.
- Request/authorize overtime only after ascertaining that there is an absolute need affecting the safe and/or efficient operation of the institution/facility/region/department/work area.
- Ensure that work is distributed in such a manner as to avoid the need for overtime, except in rare, unforeseen circumstances.

All overtime shall be pre-approved by a designated supervisor, who will ensure that every other alternative has been considered prior to granting overtime approval. Within an institution, being ordered to stay on post beyond the normal end of shift, or scheduled to work overtime by the Watch Office, Correctional Sergeant or Lieutenant constitutes pre-approval.

**31080.7.2 LEAVE CREDIT/OVERTIME PERSONNEL OFFICE RESPONSIBILITIES**

**The Personnel Office is responsible for the following:**

- Submitting STD Form 607 to establish all budgeted positions.
- Providing Department Heads, major Work Area Managers, and the Institutional Personnel Assignment Office with a monthly listing of employees who report to them, and the accrued leave balances of those employees.
- Mailing the notice required by FMLA to employees who have been off work for several consecutive days and may be eligible under the FMLA. This shall be done by the next payday after the employee has been off for FMLA.
- Verifying that all employees are charged appropriate leave credits for all leave time off used.

**Vacation Leave**

- In the institutions, forwarding a list to the Personnel Assignment Office by October 1 of each year, of the current accrued vacation leave balances for Correctional Officers, Sergeants and Lieutenants. This listing will be used during the annual vacation bidding process.

**Overtime Management**

- Ensuring that overtime is recorded accurately and appropriate payments are made to employees.

**Holiday Leave**

- Informing all employees of any additional holidays declared by gubernatorial proclamation.

**31080.7.3 INSTITUTIONAL LEAVE CREDIT/OVERTIME PERSONNEL ASSIGNMENT OFFICE RESPONSIBILITIES**

The Personnel Assignment Office has the responsibility to establish and fill all Correctional Officer, Sergeant and Lieutenant posts, including relief (with the exception of those in the Institutional Vacancy Plans). The Personnel Assignment Office shall schedule Correctional Officer coverage for long-term sick, long-term vacancies, vacations, or any other vacancy for which there is sufficient advance notice. Such coverage shall be assigned in such a manner as to avoid overtime whenever possible.

**The Personnel Assignment Office shall have the additional following responsibilities:**

**Sick leave**

- Provide coverage for pre-scheduled/pre-approved Correctional Officer, Sergeant and Lieutenant sick leave absences longer than one week in duration.

**Vacation leave**

- Conduct the vacation bid process and then track the vacations for the Correctional Officer, Sergeant and Lieutenant classifications.
- Ensure that the coverage provided for posted position vacations is consistent with the budgeted relief for the respective classification.

**31080.7.4 INSTITUTIONAL LEAVE CREDIT/OVERTIME CUSTODY CAPTAIN RESPONSIBILITIES**

**Vacation**

The Custody Captain has the overall responsibility for the annual vacation bidding process for Correctional Officers, Sergeants and Lieutenants as specified in the collective bargaining agreements and this article of DOM.

**Holiday**

The Custody Captain will approve holiday time off for Correctional Lieutenants and Sergeants based on the number of holiday relief positions assigned by watch and day, and/or the availability for cross coverage. Requests for time off will be submitted to the Custody Captain through the normal chain of command.

**31080.7.5 INSTITUTIONAL LEAVE/OVERTIME WATCH OFFICE RESPONSIBILITIES**

Filling behind leave that has not been pre-scheduled/pre-approved. The Watch Office is responsible for the daily coverage for Correctional Officers, Sergeants, and Lieutenants who call in sick or for any other unplanned absence, using resources in the following priority order:

- Internal coverage (i.e., reassignment of employees when post workload has been temporarily eliminated, such as, when there are no inmates on the facility yard due to a lock down).
- Utility days.
- OTAP (including Retired Annuitants).
- Other budgeted reliefs not already assigned to cover a post for that day (e.g., sick leave, vacation, or holiday).
- Permanent Intermittent Employee (PIE).
- Voluntary Overtime.
- Involuntary Overtime.

**The Watch Office is responsible for:**

**Sick**

- Taking daily sick calls from Correctional Officers, Sergeants and Lieutenants.
- Notifying employees when a medical verification is required.

### **Holiday**

- Handle the day-to-day administration and approval of holiday time off for Correctional Officers based on the number of holiday relief positions assigned by watch and day.

### **Overtime**

- Ensure that voluntary and involuntary overtime is administered according to the provisions of the specific collective bargaining agreements and the regulations of the specific WWG regarding FLSA.

### **31080.7.6 INSTITUTIONAL LEAVE CREDIT/OVERTIME CORRECTIONAL OFFICER RESPONSIBILITIES**

The Correctional Officer's responsibilities are as follows:

#### **Holiday**

- Making every attempt to use holiday credit within twelve months of accrual.
- Providing written notice at least forty-eight (48) hours prior to canceling approved holiday leave.

### **31080.7.7 INSTITUTIONAL LEAVE CREDIT/OVERTIME FOOD MANAGER RESPONSIBILITIES**

The Correctional Food Manager/Assistant; Food Manager/Supervising Cooks are responsible for the following:

#### **Overtime**

- Scheduling daily coverage for Supervising Cooks I, who call in sick or for any other unplanned absence.

### **31080.7.8 INSTITUTIONAL LEAVE CREDIT/OVERTIME HEALTH CARE SERVICES DESIGNATED SUPERVISOR RESPONSIBILITIES**

The Designated Supervisor at Institutional Health Care is responsible for the following:

#### **Sick**

- Taking daily sick calls from health care employees, notifying employees when a medical verification is required, and for providing daily coverage for those vacancies created by the sick call as necessary.

#### **Overtime**

- Scheduling daily coverage for Medical Technical Assistants (MTA) and Nurses, who call in sick or for any other unplanned absence. When there is no designated supervisor for Health Care Services on duty, (i.e., first watch) the Watch Office may assist in arranging coverage for MTAs and Nurses.

### **31080.7.9 LEAVE CREDIT/OVERTIME EMPLOYEE RESPONSIBILITIES**

The employees' responsibilities are as follows:

- Submitting a completed, signed CDC Form 998-A, Employee's Attendance Record, which accurately reflects all leave taken during the month, to the Personnel Office on or before the third working day after the end of the pay period, in which the leave was taken.
- Ensuring that he/she has sufficient accrued leave credits to cover a planned absence.

#### **Sick**

- Ensuring that all sick leave requested is necessary to provide for personal medical needs or that of a qualifying family member.
- Ensuring that all sick leave requested is for an authorized reason based on laws, (including, but not limited to, FMLA, CFRA, LC 233) policy, regulations or collective bargaining agreements.

- Providing medical verification when instructed to do so in accordance with laws, policy, regulations or collective bargaining agreements.

### **Vacation**

- Submitting a vacation request each year following the established procedures for their classification and/or assignment.
- Monitoring accrued vacation/annual leave balances and ensuring that sufficient vacation time is requested so that accrued balances do not exceed established maximums.

### **Overtime**

- Working overtime only if this is pre-approved by the designated supervisor.

Employees who have questions about leave usage may contact the Personnel Office for further information.

### **31080.8 LEAVE SCHEDULING**

Leave scheduling shall:

- Be consistent with the needs of the work area.
- Ensure an adequate work force to maintain the security and/or operation of the work area.
- Be by seniority as defined in applicable collective bargaining agreements, or DPA rules for non-represented employees.

### **31080.8.1 VACATION**

The following process shall be followed for requesting and/or approving vacations:

#### **Correctional Officers**

The Personnel Assignment Office will publish a schedule of available vacation periods by October 1 of each year. The length of vacation periods may vary from institution to institution (e.g., one week, two weeks, or three weeks). Each institution will determine the vacation periods based on the number of Correctional Officers, and the number of vacation relief positions established in the budget.

Vacation request forms will be made available to Correctional Officers by October 1 of each year, which must be completed and returned to the site designated on the form within thirty (30) days of issuance. It is the responsibility of all employees to complete and submit a vacation request form each year. Correctional Officers will make their selections on the vacation request form by numbering the periods they desire in descending priority order. For example: First choice is numbered "1"; second choice is numbered "2", etc.

Each Correctional Officer will be assigned a vacation on a seniority basis, as specified in Bargaining Unit 6, collective bargaining agreements. The Personnel Assignment Office will assign any remaining vacation periods, without consideration of seniority, to Correctional Officers, who failed to submit a vacation request form or improperly completed the form.

The approved vacation schedule will be posted by December 1 of each year. Once an employee has been given an approved vacation period, he/she may not trade that vacation period with another employee as a mutual swap.

Correctional Officers may notify the Personnel Assignment Office that they wish to cancel approved vacations by submitting a written request no less than 30 calendar days prior to the scheduled vacation. Per the collective bargaining agreements for Bargaining Unit 6, Institutional employees may cancel their vacation, but may not carry over excess vacation time which may accrue as a result of the cancellation.

After the annual vacation bidding process is completed, Correctional Officers may submit requests for additional vacations should additional vacation periods open up due to cancellations, retirements, promotions, separations, employees' transferring out of the institution or other circumstances.

These unexpected openings are called "standby vacations."

### **Correctional Sergeants and Correctional Lieutenants**

The Custody Captain will publish a schedule of available vacation periods for all Correctional Sergeants and Lieutenants by October 1 of each year.

Vacation request forms will be made available to Correctional Sergeants and Lieutenants by each October 1. These forms must be completed and returned to the site designated on the form within thirty (30) days of issuance. It is the responsibility of all employees to complete and submit a vacation request form each year.

Correctional Sergeants and Lieutenants who are assigned to posts for which there is no budgeted vacation relief will participate in the vacation bidding process along with all other Correctional Sergeants and Lieutenants. No later than thirty (30) days before the time of the approved vacation, if it is determined that they will still be assigned to such posts at the time of their approved vacations, those vacation periods will open up as standby vacations for other Institutional employees.

Correctional Sergeants and Lieutenants will be assigned vacations on a seniority basis. Remaining vacation periods will be assigned without consideration of seniority to Correctional Sergeants and Lieutenants, who fail to submit a vacation request form or improperly complete the form. The approved vacation schedule will be posted by December 1 of each year.

Correctional Sergeants and Lieutenants may request to cancel approved vacations by submitting a written request no less than 30 days prior to the Custody Captain through the normal chain of command. Correctional Sergeants and Lieutenants projected to exceed the maximum accrual of vacation/annual leave credits in the scheduled calendar year will not be permitted to cancel vacations unless alternate vacation periods can be accommodated.

After the annual vacation bidding process is completed, Institutional employees may submit requests for additional vacations. Additional vacation periods open up due to cancellations, retirements, promotions, separations, and/or employees' transferring out of the institution or other circumstances. These unexpected openings are called "standby vacations."

#### **Standby Vacations For Correctional Officers, Correctional Sergeants And Correctional Lieutenants**

Standby vacations for which there are no existing bids will be offered to employees in the following priority order:

- Employees whose vacation/annual leave credits are over the established maximum limits, or are projected to go over these limits by the end of the calendar year, will be so notified and required to submit a plan to reduce their credits to the designated supervisor. These employees shall have first priority for standby vacation periods; with the highest priority being given to employees with the highest leave balances.
- Employees who had not been awarded vacations during the bidding process (transfers-in, employees who had not yet completed six month's of state service, employees who were off on long-term sick leave, NDI or IDL, etc.).
- Employees, who had requested additional vacations during the applicable vacation period, on seniority basis.

#### **All Other Employees**

By January 15 of each year, all employees (except Correctional Officers, Sergeants and Lieutenants) will submit to their supervisors, in writing, their vacation requests for the remainder of that calendar year through February of the following year. On or before February 15 of each year, supervisors/managers will review the vacation requests. Vacations shall be awarded based on: operational need; the safe and/or efficient operation of the work area; and the number of employees by classification that may be on vacation at the same time in the designated work area. When the number of employees requesting vacation for a specific time exceeds the number that can be on vacation at the same time, vacations will be awarded by State service seniority. Employees will be informed of the approved vacation schedule by February 20 of each year.

An employee may submit additional requests for vacation throughout the year. These will be considered on a timely basis by the designated supervisors and granted whenever possible based on operational need, and the safe and/or efficient operation of the work area.

Employees who wish to cancel scheduled vacations must notify their designated supervisors in writing no less than 30 days prior to the scheduled vacation.

By June 1 of each calendar year, represented employees whose vacation/annual leave balances exceeds or could exceed by December 31 the vacation/annual leave cap allowed by collective bargaining agreements or DPA rules, shall submit to their supervisor, for approval, a written plan to bring their vacation balance to the amount permitted prior to January 1 of the following year. If an employee fails to submit a written plan or adhere to an approved plan, the employee's supervisor shall order the employee to take sufficient vacation to reduce the actual or potential vacation balance to below the authorized cap.

If it is unavoidable that the employee cannot use the scheduled time due to emergency, sick leave, or unanticipated operational needs, the employee shall be allowed to reschedule the time to be taken off.

Employees whose vacation or annual leave balances exceed their maximum cap on January 1 may not have the excess deducted from their balances.

### **31080.8.2 HOLIDAY**

Refer to the collective bargaining agreement, as it shall be the controlling factor if the provisions of Government Code (GC) 19853 are in conflict.

Holidays falling on an employee's day off shall be credited to an employee pursuant to current administrative practices, collective bargaining agreement provisions, and consistent with GC 19853.

#### **The following process shall be followed for requesting and/or approving holiday time off:**

##### **Correctional Officers**

A schedule of available holiday time off for Correctional Officers shall be developed for each institution by watch, based on the number of budgeted holiday relief positions at that institution. These should be assigned proportionately among all three watches based on the number of staff assigned to each watch.

All Correctional Officers will submit requests to use holiday time off at the designated time and location, approved by the appointing authority. Generally, requests for holiday time off must be submitted no later than thirty (30) days before the time off unless otherwise specified by the Custody Captain. Correctional Officer requests for holiday time off will be approved by the Watch Office on a first come, first served basis.

A Correctional Officer may notify the Watch Office of a desire to cancel scheduled holiday time off by submitting a written request to the Watch Office no later than 48 hours before the scheduled time off.

##### **Correctional Sergeants/Correctional Lieutenants assigned to posts for which there is budgeted holiday relief:**

A schedule of available holiday time off for Correctional Sergeants and Lieutenants assigned to posts with budgeted holiday relief, will be developed for each institution/work area based on the number of budgeted relief positions for that institution/work area or the availability of appropriate coverage.

Correctional Sergeants or Lieutenants assigned to posts with budgeted holiday relief will request holiday time off from the Custody Captain through the normal chain of command. Generally, requests for holiday time off must be submitted no later than thirty (30) days before the time off. Requests for holiday time off will be approved on a first come, first served basis, for Correctional Sergeants or Lieutenants.

##### **Correctional Sergeants/Correctional Lieutenants assigned to posts for which there is no budgeted holiday relief:**

Correctional Sergeants and Lieutenants assigned to posts for which there is no budgeted holiday relief will request holiday time off from the designated supervisor.

Requests will be approved whenever possible, depending upon operational need and the safe and efficient operation of the institution/work area.

Requests will be approved on a first come, first served basis based on available coverage and the safe and efficient operation of the institution/work area.

#### **All other Employees**

All other employees will request holiday time off from designated supervisors. All employees not in positions for which there is budgeted holiday relief will take the holidays off as they occur.

Requests will be approved whenever possible, depending upon operational need and the safe and efficient operation of the institution/work area. Requests will be approved on a first come, first served basis.

Full time employees who are required to work on a holiday shall be entitled to pay and/or compensating time off in accordance with the assigned WWG and collective bargaining agreement.

Less than full time employees will be entitled to partial holidays, holiday credit and/or compensation, in accordance with the assigned WWG and collective bargaining agreement.

### **31080.9 FAMILY MEDICAL LEAVE ACT (FMLA)/CALIFORNIA FAMILY RIGHTS ACT (CFRA)**

FMLA/CFRA established an entitlement for employees who have a minimum of twelve (12) months of State service and who have physically worked a minimum of 1250 hours in the year immediately preceding the date the leave is to begin, to a job protected leave, for up to twelve (12) workweeks in a twelve month period due to any of the following reasons:

- Reasons relating to pregnancy or childbirth (FMLA only);
- care of a newborn child (bonding);
- placement of a child in the employee's home for adoption or foster care;
- care for the employee's child, parent, or spouse, with a serious health condition; and/or
- employee's own serious health condition.

A serious medical condition under the definition of the FMLA is an absence of more than three days because the employee or employees family member is incapacitated. The absence involves ongoing or follow-up care by a medical practitioner, or a chronic medical condition so serious that if not treated, could reasonably be expected to result in the employee or the employee's family member being absent from work for more than three days.

An employee may elect to use any accrued leave credits in lieu of taking an unpaid leave, with the following exception:

- Where the provisions for the use of sick leave credits are met, the employee shall be required to use any available sick leave credits for his/her own serious health condition prior to substituting other leave credits (vacation/annual leave, personal leave, holiday, etc.) or going on unpaid leave.

The employee will not be required to use sick leave credits when caring for a family member with a serious health condition. The use of other leave credits for such an absence shall be at the employee's discretion.

Time taken for a pregnancy related leave does not count toward the twelve (12) week CFRA entitlement. Approval to use sick leave credits for a birth, adoption, or foster care of a child, or to care for a child,

parent, or spouse with a serious health condition is subject to the provisions of collective bargaining agreements, DPA rules and LC, section 233.

All leave taken for a non-work related illness or injury, which qualifies under the provisions of FMLA/CFRA (unpaid, covered by leave credits or Non-Industrial Disability Insurance) will be counted against the employee's FMLA/CFRA entitlement.

Leave taken pursuant to an approved work-related illness or injury will not be counted against an employee's twelve (12) work-week

FMLA/CFRA entitlement, and the employee will be notified each time this occurs.

If the request for use of FMLA/CFRA appears to meet the criteria, and the employee is eligible for FMLA/CFRA leave, the employee is to be provided with the appropriate medical certification form to forward to the treating physician and allowed a minimum of fifteen (15) calendar days to provide the medical certification to his/her designated supervisor. The employer **cannot require** the employee or physician to provide a specific diagnosis of the condition necessitating the leave. The treating physician will determine, based on an evaluation, if the employee (or the employee's family member) has a medical condition that qualifies as "serious" under the definition of the FMLA/CFRA. An employee who has a chronic documented medical condition that necessitates being absent on an intermittent basis can only be required to furnish a medical certification no more frequently than every thirty (30) days, and then only in conjunction with an absence. In all cases, the requirement to furnish medical certification can be no more restrictive than that outlined in the applicable collective bargaining agreements.

No absence which qualifies for leave taken under the provisions of FMLA/CFRA/LC 233 will be counted against any employee for purposes of determining excessive sick leave use/abuse or when considering the employee for promotion, out of class assignment, etc.

When Compensating time off is used for FMLA absences, these are not counted toward the twelve (12) week entitlement, so other leave credits should be used first for FMLA.

Additional details for processing FMLA is included in the CDC Family and Medical Leave Handbook. Each Personnel Officer, Employee Relations Officer and Return to Work Coordinator has copies of this handbook.

An employee who has had no sick leave usage, except under the FMLA/CFRA, in a twelve (12) consecutive month period shall receive a "Letter of Recognition" for excellence in the area of attendance.

### **31080.10 CALIFORNIA LABOR CODE (LC) SECTION 233**

Under LC 233 an employee shall be permitted to use, in any calendar year, not less than one half of one year's accrual of the employee's accrued and available sick leave to attend to the illness of a child, parent, or spouse of the employee.

The employee is protected from discipline of discrimination for using sick leave for these purposes under this Labor Code.

### **31080.11 REVISIONS**

The Deputy Director, Human Resources Division, shall ensure that the content of this article is accurate and current.

### **31080.12 REFERENCES**

Department of Personnel Administration Rules  
California Code of Regulations (15)(3)  
Collective Bargaining Agreements  
Family Medical Leave Act  
Fair Labor Standards Act  
Labor Code, section 233  
Government Code, section 19853